In the Supreme Court of the United States

OCTOBER TERM, 1970

No. 1035

JOSEPH L. HORVATH, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

After a jury trial in the United States District Court for the Eastern District of Michigan, petitioner was convicted of aiding and abetting a bank robbery in violation of 18 U.S.C. 2 and 2213. He was sentenced to twenty years' imprisonment. The court of appeals affirmed *per curiam* (Pet. App. A).

Petitioner contends here, as he did below, that his confession was made involuntarily as a result of promises that his girl friend would not be prosecuted,

that he would receive methadone treatment because of his drug addiction, and that he would receive low bond.

The district court, after a hearing outside the presence of the jury to determine if petitioner's confession was induced by threats or promises, disbelieved petitioner (II Tr. 157) and concluded that the confession was voluntarily made and that petitioner fully understood his constitutional rights. The record, as the court of appeals noted, fully supports this conclusion.

The testimony at the hearing indicated that, on June 4, 1968, petitioner confessed to a state bank robbery charge after being questioned by state and federal officers (I Tr. 13, 16, 17-18). On June 5, 1968, he admitted to the federal bank robbery charge to federal agents (I Tr. 29-33). At both times, he was instructed of his constitutional rights under *Miranda* v. *Arizona*, 384 U.S. 436, and stated that he understood them (I Tr. 13, 16, 25). The federal agents denied making any threats or promises to petitioner or that any were made in their presence on either of these occasions (*e.g.*, I Tr. 33, 34-35, 38-39; II Tr. 73, 79, 80-82, 89). The state police officer who questioned petitioner on June 4 denied that he made or heard any promises or threats concerning petitioner's girl friend or petitioner's need for methadone treatment (II Tr. 52, 57, 60-63). In these circumstances, the district court properly refused to exclude petitioner's confession.

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

ERWIN N. GRISWOLD,
Solicitor General.

JANUARY 1971.

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